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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------|-------------|-------------------------|---------------------|------------------|
| 10/573,051 | 03/22/2006 | Bernard Hendrik Reesink | 4872 | 8981 |
| 48227 | 7590 | 07/14/2010 | | |
| BASF CATALYSTS LLC | | | | |
| 100 CAMPUS DRIVE | | | | |
| FLORHAM PARK, NJ 07932 | | | | |
| EXAMINER | | | | |
| SINGH, PREM C | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1797 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 07/14/2010 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTONotices@basf.com
linda.komorowski@basf.com
sonny.nkansa@basf.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/573,051

Applicant(s)

REESINK ET AL.

Examiner

PREM C. SINGH

Art Unit

1797

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Ps 070910

/PREM C SINGH/
Examiner, Art Unit 1797

Continuation of 3. NOTE: The limitations of proposed new claims 33, 39, 40, 42-45 and 47 were not considered in the Final Office Action dated: 03/04/2010 and require further consideration and/or search.

Objection to claims 25 and 27 is withdrawn.

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicant argues that the prior art fails to teach the new feature of the claim "while contacting the feedstock with the nickel adsorbent".

The Applicant's argument is not persuasive because Winsor discloses using cobalt and molybdenum oxides for sulfur removal in a step before desulfurization with nickel adsorbent (See page 2, lines 30-45). Winsor also discloses that more than one stage of desulfurization using nickel adsorbent can be used (See page 2, lines 30-41). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify Winsor invention and use cobalt and molybdenum oxides along with nickel adsorbent for an enhanced desulfurization effect. According to MPEP, "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose" In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). It is also evidenced by Brahma et al (US Patent 5,482,616) (a reference cited by the Applicants, see Specification, page 5, line 20). Brahma discloses that nickel can be used with metal oxides including Co, Mo, Fe in two beds or combined in one bed (See column 2, lines 44-53; column 3, lines 3-9; column 4, lines 4-9; column 6-7, Example II).

The Applicant argues that claims 26-30 depend on claim 25 and therefore, Winsor, Kimber and Bouwman taken alone or in combination fail to render them obvious.

The Applicant's argument is not persuasive because claim 25 is obvious over Winsor in view of Kimber evidenced by Brahma as discussed above and therefore, claims 26-30 are obvious as discussed in the Office action dated:03/04/2010 (See paragraph 20-22).

Proposed amendment and addition of new claims is not entered because claims 33, 39, 40, 42-45 and 47 need further consideration and/or search.